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असाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on 22nd June, 1977:—

BILL No. 51 OF 1977

A Bill to amend the Cardamom Act, 1965

Be it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Cardamom (Amendment) Act, 1977.

Short
title.

42 of 1965. 2 In section 14 of the Cardamom Act 1965 (hereinafter referred to as the principal Act), in sub-section (1) for the words "not exceeding two per cent *ad valorem*", the words "not exceeding five per cent *ad valorem*" shall be substituted

Amend-
ment of
section 14.

3 In section 33 of the principal Act, in sub-section (3), for the words "in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following", the words "in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted

Amend-
ment of
section 33.

STATEMENT OF OBJECTS AND REASONS

The Cardamom Act, 1965, provides for the development of the cardamom industry, under the control of the Union. Under sub-section (1) of section 14 of the Act, a cess on all cardamom exported from India is leviable at a rate not exceeding two per cent *ad valorem*, as the Central Government may, by notification in the Official Gazette, fix. A notification was issued by the Central Government on the 5th March, 1966 fixing the rate of cess on cardamom exports at one per cent. *ad valorem*. To meet the expenditure on increased development activities of the Cardamom Board, the rate of cess was increased from the 1st April, 1969 from one per cent. to two per cent. *ad valorem*.

2. The expenditure incurred by the Cardamom Board during the recent years has been steadily increasing due to the introduction of development schemes for the betterment of the cardamom plantation industry. The increased activities of the Board have caused an imbalance in the financial position of the Board since the fund from which the Board is financed cannot meet its gradually increasing expenditure on its developmental schemes. It is, therefore, proposed to increase the maximum rate of cess from two per cent. to five per cent. *ad valorem* by amending suitably sub-section (1) of section 14 of the Act.

3. Opportunity is being taken to modify sub-section (3) of section 33 of the Act relating to laying of rules before Parliament to bring it in conformity with the recommendation of the Committee on Subordinate Legislation.

4. The Bill seeks to achieve the above objects.

NEW DELHI,
The 10th June, 1977.

MOHAN DHARIA.

BILL NO. 55 OF 1977

A Bill to provide for the taking over of the management of the undertakings of the two Yoga Societies for a limited period in the public interest and in order to secure the proper management thereof and for matters connected therewith or incidental thereto

BE it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Yoga Undertakings (Taking Over of Management) Act, 1977.

Short title
and com-
mence-
ment.

(2) It shall be deemed to have come into force on the 24th day of May, 1977

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "Administrator" means the person or body of persons appointed as the Administrator under section 4;

(b) "appointed day" means the 24th day of May, 1977;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "Societies Registration Act" means the Societies Registration Act, 1860, as in force in the Union territory of Delhi;

21 of 1860.

(e) "two Yoga Societies" means the—

(i) Vishwayatan Yogashram, a society registered under the Societies Registration Act and having its registered office at B-35, Defence Colony, New Delhi, and

(u) Central Research Institute for Yoga, a society registered under the Societies Registration Act, and having its registered office at Yogashram, Ashok Road, New Delhi,

and the expression "Yoga Society" shall be construed as referring to one of the two Yoga Societies,

(f) words and expressions used herein and not defined, but defined in the Societies Registration Act shall have the meanings, respectively, assigned to them in that Act.

CHAPTER II

TAKING OVER OF THE MANAGEMENT OF THE UNDERTAKINGS OF THE TWO YOGA SOCIETIES

Management of the undertakings of the two Yoga Societies.

3. (1) On and from the appointed day, and for a period of two years thereafter, the management of the undertakings of the two Yoga Societies shall vest in the Central Government:

Provided that if the Central Government is of opinion that in order to secure the proper management of the undertakings of either, or both, of the Yoga Societies, it is expedient that such management should continue to vest in the Central Government after the expiry of the said period of two years, it may, from time to time, issue directions for the continuance of such management for such period, not exceeding one year at a time, as it may think fit, so, however, that the total period for which such management shall continue to vest in the Central Government shall not, in any case, exceed five years

(2) The undertaking of each of the two Yoga Societies shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, workshops, projects, stores, instruments, machinery, aircraft, automobiles and other vehicles, cash balances, reserve funds, investments and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession, power or control of each of the two Yoga Societies, whether within or without India, and all books of account, registers, maps, plans and all other documents of whatever nature relating thereto.

(3) Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the business and affairs of the undertakings of either, or both, of the Yoga Societies, and in force immediately before the appointed day, shall be deemed to have terminated on the appointed day.

(4) All persons in charge of the management of either of the two Yoga Societies, including persons holding offices as directors, managers, members of the Governing Body or Board of Trustees or any other managerial personnel of either, or both, of the Yoga Societies immediately before the appointed day shall be deemed to have vacated their offices as such on the appointed day

4. (1) The Central Government shall, as from the appointed day, appoint a person or a body of persons as the Administrator of the undertakings of the two Yoga Societies for the purpose of taking over the management thereof and the Administrator shall carry on the management of the undertakings of the two Yoga Societies for and on behalf of the Central Government.

Adminis-
trator of
the two
Yoga
Societies.

(2) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Administrator as to his powers and duties as that Government may deem desirable and the Administrator may apply to the Central Government at any time for instructions as to the manner in which he shall conduct the management of the undertakings of the two Yoga Societies or in relation to any matter arising in the course of such management.

(3) Subject to the other provisions of this Act and the rules made thereunder and to the control of the Central Government, the Administrator shall be entitled, notwithstanding anything contained in the Societies Registration Act or in any other law for the time being in force, to exercise, in relation to the undertakings of the two Yoga Societies, the powers of the Governing Body, or, as the case may be, the Board of Trustees, of the respective Yoga Society, including the powers to dispose of any property or assets of such society, whether such powers are derived under any law for the time being in force or from the memorandum and rules and regulations of the concerned Yoga Society or from any other source.

(4) Every person having possession, custody or control of any property forming part of any undertaking of either of the two Yoga Societies shall deliver forthwith such property to the Administrator or to any officer or other employee of the Central Government, as may be authorised by the Central Government in this behalf.

(5) Any person who, on the appointed day, has in his possession or under his control any books, papers or other documents relating to any undertaking of either of the two Yoga Societies, including the minutes books containing the resolutions of the persons in charge of the management of the concerned Yoga Society before the appointed day, the current cheque books relating to the undertakings of the concerned Yoga Society, any letters, memoranda, notes or other communications between him and either of the two Yoga Societies shall, notwithstanding anything contained in any other law for the time being in force, be liable to account for the books, papers and other documents (including such minutes books, cheque books, letters, memoranda, notes or other communications) to the Administrator or to any such person (being an officer or other employee of the Central Government) as may be authorised by the Central Government in this behalf.

(6) Every person in charge of the management of the undertakings of either of the two Yoga Societies immediately before the appointed day shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Administrator a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) forming part of the undertakings of the concerned Yoga Society

immediately before the appointed day and of all the liabilities and obligations of the concerned Yoga Society, in relation to its undertakings, subsisting immediately before that day, and also of all agreements entered into by either, or both, of the Yoga Societies in relation to its or their undertakings and in force immediately before that day

(7) The Administrator shall receive from the funds of the two Yoga Societies such remuneration as the Central Government may fix.

No right to compensation for premature termination of a contract.

5 Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract of management or other arrangement is terminated by reason of the provisions contained in sub-section (3) of section 3 or who ceases to hold any office by reason of the provisions contained in sub-section (4) of that section, shall be entitled to claim any compensation for the premature termination of the contract of management or other arrangement or for the loss of his office.

Relinquish ment of management of the two Yoga Societies.

6 (1) Notwithstanding anything contained in sub-section (1) of section 3, if, at any time before the expiry of the period referred to in that sub-section, it appears to the Central Government that the purposes of the vesting of the management of the undertakings of either, or both, of the Yoga Societies in that Government have been fulfilled or that for any other reason it is not necessary that the management of the undertakings of either, or both, of the Yoga Societies should remain vested in that Government, it may, by order published in the Official Gazette, relinquish the management of the undertakings of either, or both, of the Yoga Societies with effect from such date as may be specified in the order.

(2) On and from the date specified under sub-section (1), the management of the undertakings of the concerned Yoga Society shall vest in the Governing Body (by whatever name called) of the concerned Yoga Society and such management shall be carried on in accordance with the provisions of the Societies Registration Act, so, however, that the steps, if any, in relation to the management of the undertakings of the concerned Yoga Society may be taken after the publication of the order under sub-section (1).

Applica- tion of Act 21 of 1860.

7. (1) Notwithstanding anything contained in the Societies Registration Act or in the memorandum and rules and regulations of either of the two Yoga Societies, but subject to the provisions of sub-section (2) of section 6, so long as the management of the undertakings of the two Yoga Societies remains vested in the Central Government,—

(a) it shall not be lawful for the members of either of the two Yoga Societies or any other person to nominate or appoint any person to be a member of the Governing Body (by whatever name called) of either of the two Yoga Societies;

(b) no resolution passed at any meeting of the members of either of the two Yoga Societies or at any meeting of the Governing Body (by whatever name called) of either of the two Yoga Societies, on or after the appointed day, shall be given effect to unless approved by the Central Government;

(c) no proceeding for the dissolution of either of the two Yoga Societies or for their merger with any other society or for the

appointment of a Receiver in respect of any undertaking thereof shall lie in any court except with the consent of the Central Government

(2) Subject to the provisions contained in sub-section (1) and subject to such other exceptions, restrictions and limitations, if any, as may be prescribed, the Societies Registration Act shall continue to apply to the concerned Yoga Society in the same manner as it applied thereto before the appointed day

CHAPTER III

MISCELLANEOUS

8. Any person who, —

Penalties.

(a) having in his possession or custody or under his control any property forming part of any undertaking of either of the two Yoga Societies, wrongfully withholds such property from the Administrator or any person authorised under this Act, or

(b) wrongfully obtains possession of any such property, or

(c) wilfully retains, or fails to deliver, any property forming part of any of the undertakings of either of the two Yoga Societies or removes or destroys it, or

(d) wilfully withholds or fails to account for any books, papers or other documents which may be in his possession or custody or under his control to the Administrator or any person authorised under this Act, or

(e) fails, without any reasonable cause, to furnish information or particulars as provided in sub-section (6) of section 4,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

9 (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly

Offences
by com-
panies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals, and

(b) “director”, in relation to a firm, means a partner in the firm.

Exclusion
of period
of opera-
tion of
Act.

10. In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by either of the two Yoga Societies in respect of any matter arising out of any transaction in relation to their undertakings, the time during which this Act is in force shall be excluded

Act to
have over-
riding
effect.

11 The provisions of this Act or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court.

Protection
of action
taken in
good
faith.

12 (1) No suit, prosecution or other legal proceeding shall lie against the Administrator or any officer or other employee of the Central Government for anything which is in good faith done or intended to be done under this Act

(2) No suit or other legal proceeding shall lie against the Central Government or the Administrator or any of the officers or other employees of the Central Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act

Contracts
in bad
faith may
be can-
celled or
varied.

13 (1) If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into at any time within one year immediately preceding the appointed day, between either of the two Yoga Societies, and any other persons in so far as such contract or agreement relates to any undertaking of such Yoga Society, has been entered into in bad faith, or is detrimental to the interests of the concerned Yoga Society, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard

(2) Any person aggrieved by an order under sub-section (1) may make an application to the High Court at Delhi for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order

Power to
terminate
contract of
employ-
ment.

14 If the Administrator is of opinion that any contract of employment entered into by either of the two Yoga Societies in relation to their undertakings, at any time before the appointed day, is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment

15 (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to
make
rules.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

8 of 1977. 16. (1) The Yoga Undertakings (Taking Over of Management) Ordinance, 1977, is hereby repealed.

Repeal
and
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provision of this Act

STATEMENT OF OBJECTS AND REASONS

The Government of India in the Ministry of Health and Family Welfare (Department of Health) have given a total grant of Rs 16,01,371.55 to the Vishwayatan Yogashram, New Delhi, from the year 1969 to 31-12-1975 through the Central Council for Research in Indian Medicine and Homoeopathy for running a Clinical Research Unit (Yoga). Subsequently, a Central Research Institute (Yoga) was established as a registered society in the Yogashram with effect from the 1st January, 1976 to study the effects of yoga in various diseases like diabetes, asthma, etc. and to study the effects of *yogic kriyas* on various organs of healthy persons. A sum of Rs 10,40,000 was given as grant-in-aid to the Central Research Institute during the period from 1-1-1976 to 31-3-1977. Shri Dharendra Brahmachari was Managing Trustee of the Vishwayatan Yogashram and Director of the Central Research Institute for Yoga.

Consequent on an inquiry into the utilisation of the funds sanctioned to the Clinical Research Unit (Yoga) at the Vishwayatan Yogashram and later to the Central Research Institute (Yoga), New Delhi, it has been found that the money given as grant-in-aid has been systematically siphoned away by falsification of accounts by the Managing Trustee of the Yogashram and Director of the Central Research Institute (Yoga) by adopting the following methods:—

- (i) non-maintenance of full particulars and accounts of costly scientific instruments, apparatus, and equipments said to have been purchased from time to time and declaring the assets under arbitrary classification at a value not verifiable by the Auditors;
- (ii) charging depreciation on assets at undisclosed rates and not enabling the Auditors to verify the correctness of the depreciation charged on any item;
- (iii) not carrying out physical verification of the assets in any year to ensure that the assets were physically present and were approximately of the declared value; and
- (iv) creation of buildings and assets of doubtful value by fictitious transfers

Even in relation to the grants given by the Ministry of Education and Social Welfare to the Yogashram, there have been adverse audit comments. Further, the land given to the Vishwayatan Yogashram near New Delhi G.P.O., New Delhi, by the Ministry of Works and Housing has not been put to proper use. In these circumstances, it has been considered necessary both in the public interest as well as to secure proper management that the management of the Vishwayatan Yogashram as well as the management of the Central Research Institute (Yoga) be taken over by the Central Government initially for a period of two years with powers to extend the period up to an aggregate period of five years. As Parliament was not in session, it was considered expedient in the public interest to promulgate an Ordinance *viz.* "The Yoga Undertakings

(Taking Over of Management) Ordinance, 1977—No. 8 of 1977” for taking over of the management of the Vishwayatan Yogashram and its Centre at Katra Vaishnodevi and Central Research Institute (Yoga) and appointment of an Administrator thereof.

The Government of India are now taking steps to accelerate the research programme in the yoga system in the above-mentioned Institutes on sound footings and to provide efficient medical aid to the public in the yoga system. The Bill is intended to achieve these objectives and to replace the Ordinance.

NEW DELHI;

RAJ NARAIN

The 14th June, 1977

FINANCIAL MEMORANDUM

The Bill provides for the taking over of the management of two registered societies namely Vishwavyatan Yogashram (near Gole Dak Khana, New Delhi and its centre at Katra Vaishnodevi) and the Central Research Institute for Yoga which is also functioning in the Yogashram at New Delhi.

2. Clause 4 of the Bill provides for the appointment of a person or a body of persons as the Administrator of the undertakings of the two Yoga Societies and further provides that the Administrator shall receive from the funds of the two Yoga Societies such remuneration as the Central Government may fix.

3. The management of the two Yoga Societies will involve a recurring annual expenditure of Rs 10.33 lakhs to meet the on-going activities. The Bill, if enacted, is not likely to involve any non-recurring expenditure during the current financial year. In case there arises any need to incur any non-recurring expenditure, it would be incurred from the budget grant of the Ministry of Health and Family Welfare.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules to carry out the purposes of this Act. These rules mainly relate to the efficient management and working of the Vishwayatan Yogashram at New Delhi and its Centre at Katra Vaishnodevi and Central Research Institute for Yoga, New Delhi.

2. The matters in respect of which rules can be made are generally matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is therefore of a normal character.

*Memorandum regarding changes in the Bill to replace the Yoga
Undertakings (Taking Over of Management) Ordinance, 1977*

Besides necessary drafting and consequential changes, in sub-clause (1) of clause 13, the words "one year" have been substituted for the words "three years". This has been done as one of the two Yoga Societies was registered as a society with effect from 1-1-1976.

AVTAR SINGH RIKHY,
Secretary.